

REMARKS/ARGUMENTS

Initially Applicant would like to express appreciation to the Examiner for the detailed Official Action provided.

Claims 1-10 are currently pending. Applicant respectfully request reconsideration of the outstanding rejections, and allowance of the claims pending in the present application.

In the Official Action, the Examiner rejected claims 1, 4, 5 and 8 under 35 U.S.C. § 102(b) as being anticipated by Applicant's Admitted Prior Art Figure 1 (Prior Art Fig. 1).

Applicant respectfully traverse the above-noted rejection of claims 1, 4, 5 and 8 under 35 U.S.C. § 102(b).

In this regard, Applicant notes that Prior Art Fig. 1 fails to teach or suggest the combination of elements as recited in claims 1, 5 and 8. In particular, claims 1, 5 and 8, all set forth a torsion beam axle suspension including, inter alia, a mount provided or formed in the outermost end of left and right trailing arms.

Applicant submits that Prior Art Fig. 1, alone or in any proper combination, lack any disclosure of the aforementioned combination of elements.

The Examiner cites to Prior Art Fig. 1, as purportedly disclosing a torsion beam axle suspension having left and right trailing arms, a torsion beam, and "a shock absorber mount provided at the outermost ends of the trailing arms" (emphasis added, see the Official Action, page 2, reference numeral 2). Initially, Applicant notes that claims 1, 5 and 8 as currently pending, recites that a mount is provided or formed "in" the outermost end of left and right trailing arms NOT

“at” the outermost ends of the trailing arms, as the Examiner suggest. In this regard, it is clear from Prior Art Fig. 1, and page 2, lines 10-12 of the present disclosure, that the mounting bracket 16, that mounts the shock absorber, is welded to outer circumferences of respective trailing arms 4 and 6. Therefore, contrary to the Examiner’s assertions, the shock absorber is actually provided in the mount 16. Thus, Prior Art Fig. 1 does not disclose a shock absorber provided or formed in the outermost end of left and right trailing arms. Accordingly, the rejection under 35 U.S.C. § 102(b) is improper and should be withdrawn.

Absent a disclosure in a single reference of each and every element recited in a claim, a *prima facie* case of anticipation cannot be made under 35 U.S.C. § 102. Since the applied reference fails to disclose each and every element recited in independent claims 1, 5 and 8 as well as claim 3, which depends from claim 1, are not anticipated thereby. Further, all pending dependent claims recite additional features that further define the present invention over the prior art. Accordingly, the Examiner is respectfully requested to withdraw the rejection under 35 U.S.C. § 102 and allow all pending claims in the present application.

In the Official Action, the Examiner rejected claims 2, 6 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Prior Art Fig. 1 in view of MACISSAC (U.S. Patent No. 4,550,926); and

Claims 3, 7 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Prior Art Fig. 1 in view of MACISSAC, and further in view of MOLENAAR (U.S. Publication No. 2005/0047851).

Applicant respectfully traverses the rejection of claims 2, 3, 6, 7, 9 and 10 under 35 U.S.C. § 103(a).

In regard to the above-noted rejection of claims 3, 7 and 10, the Examiner acknowledges that Prior Art Fig. 1 does not disclose a shock absorber (see Page 3, reference numeral 5, of the Official Action) or a ball joint. However the Examiner takes the position that it would have been obvious to modify Prior Art Fig. 1 with the ball and socket purportedly taught by MACISSAC, and further to modify the ball and socket to include an insert hole that receives a fastener, as purportedly taught by MOLENAAR. However, modifying Prior Art Fig. 1 to include the ball and socket, as purportedly taught in MACISSAC and further modifying the reference, with the purported teachings of MOLENAAR, to include an insert hole that receives a fastener, appears to constitute an impermissible modification of a modification. Therefore, the Examiner has not presented sufficient motivation for the proposed modification, and that the only reason to combine the teachings of the applied prior art results from a review of Applicant's disclosure and the application of impermissible hindsight.

Further, Applicant submits that dependent claims 2, 3, 6, 7, 9 and 10 are at least patentable due to their respective dependencies from claims 1, 5, and 8 for reasons noted above. In this regard, even assuming, arguendo, that the teachings of Prior Art Fig. 1, MACISSAC, and MOLENAAR have been properly combined; the proposed combination still would not have resulted in the features of the embodiments of the present disclosure. Further, the Examiner has not presented sufficient motivation for the proposed modifications, and the only

reason to combine the teachings of the applied prior art results from a review of Applicant's disclosure and the application of impermissible hindsight. Accordingly, the rejection of claims 2, 3, 6, 7, 9 and 10, under 35 U.S.C. § 103(a) is improper for all the above reasons and withdrawal thereof is respectfully requested.

In view of the amendments and arguments herein, Applicant submits that independent claims 1, 5 and 8 are in condition for allowance. With regard to dependent claims 2-4, 6, 7, 9 and 10, Applicant asserts that they are allowable on their own merit, as well as because they depend from independent claims 1, 5 and 8 which Applicant has shown to be allowable.

Thus, it is respectfully submitted that all of the claims in the present application are clearly patentable over the references cited by the Examiner, either alone or in combination, and an indication to such effect is respectfully requested, in due course.

SUMMARY

Applicant submits that the present application is in condition for allowance, and respectfully request an indication to that effect. Applicant has argued the allowability of the claims and pointed out deficiencies of the applied reference. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the claims therein are respectfully requested and is now believed to be appropriate.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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July 27, 2006
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